

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:07CR106**

UNITED STATES OF AMERICA, )  
                                )  
Vs.                           )       **ORDER**  
                                )  
JAMES OTIS HENDERSON.    )  
                                )  
\_\_\_\_\_

**THIS MATTER** is before the court on the government's Motion for Order Dismissing Petition of Janet Henderson (#178), which the government mis-captioned in ECF as a "Motion for Forfeiture of Property," and sub-captioned in ECF as "Motion for Order on Previously Filed Motion to Dismiss Petition of Janet Leigh Henderson." Even though such pleading has been captioned three ways, review of the substance of pleading #178 does not reveal that the government seeks therein an Order of forfeiture; rather, such pleading simply advises the district court that the claimant failed to respond to the previously filed "Motion to Dismiss Petition of Janet Henderson" (#174).

The government is respectfully advised that such method of pleading is not only confusing, it is compounding. When the government seeks to advise the court of a party's failure to respond within the time allowed under the Local Criminal

Rules, such may be done by simply filing a Notice.<sup>1</sup> Finally, the district court has already granted the substantive relief sought by Order dated September 21, 2009.

## ORDER

**IT IS, THEREFORE, ORDERED** that the government's Motion for Order Dismissing Petition of Janet Henderson (#178), which the government mis-captioned in ECF as a "Motion for Forfeiture of Property," is **DENIED** as moot.

Signed: September 22, 2009

Dennis L. Howell

Dennis L. Howell  
United States Magistrate Judge



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<sup>1</sup> No notice is, however, required inasmuch as ECF provides dates by which responses may be filed.